

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Daisuke Matsubara et al.

Application No.: 09/816,067

Filed: March 22, 2001

For: METHOD AND APPARATUS FOR  
PROVIDING A QUALITY OF SERVICE  
PATH THROUGH NETWORKS

Customer No.: 20350

Confirmation No. 2693

Examiner: Daniel J. Ryman

Technology Center/Art Unit: 2616

RENEWED PETITION UNDER

37 C.F.R. SECTION 1.137(a)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

July 17, 2007 (e-filed)

Sir:

This renewed petition is submitted in response to an Office action mailed July 9, 2007 dismissing an earlier-filed renewed petition.

Submitted herewith are the following four appendices of documents submitted in the original filing of the petition to revive an unavoidably abandoned application, mailed February 14, 2007:

Appendix A - copy of stamped postcard of (1 page)

Appendix B - transmittal form (1 page)

Appendix C - petition to revive (3 pages)

Appendix D - docket records (2 -pages)

An RCE is submitted herewith including an amendment (originally filed February 14) as the submission and an appropriate fee transmittal, to correct the deficiency in the earlier-filed renewed petition.

Respectfully submitted,

/George B. F. Yee/

George B. F. Yee  
Reg. No. 37,478

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400 / Fax: 415-576-0300  
Attachments  
GBFY  
61101395 v1

## APPENDIX A

FILING ACKNOWLEDGMENT

Mailing Date: 2/12/07

File No.: 16869P-023900US

Inventor(s): Daisuke Matsubara et al.

Title: Method and Apparatus for Providing a Quality of Service Path Through Networks

Attorney: GBFY:cmm

Re: Application No. 09/816,067; Filing Date: March 22, 2001

**Enclosed:** Transmittal Form, Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a) (in dup.), Exhibit A, Amendment, and postcard.

Please stamp the date of receipt of the enclosed documents and return this card to addressee  
60939727 v1



**COPY**

## APPENDIX B

# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

19

Application Number

09/816,067

Filing Date

March 22, 2001

First Named Inventor

Matsubara, Daisuke

Art Unit

2616

Examiner Name

Daniel J. Ryman

Attorney Docket Number

16869P-023900US

## ENCLOSURES (Check all that apply)



Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)



Reply to Missing Parts/ Incomplete Application



Reply to Missing Parts under 37 CFR 1.52 or 1.53



Drawing(s)



Licensing-related Papers



Petition



Petition to Convert to a Provisional Application



Power of Attorney, Revocation Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) \_\_\_\_\_



Landscape Table on CD



After Allowance Communication to TC



Appeal Communication to Board of Appeals and Interferences



Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)



Proprietary Information



Status Letter



Other Enclosure(s) (please identify below):

Exhibit A

Return Postcard

Remarks

The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Townsend and Townsend and Crew LLP

Signature

Printed name

George B. F. Yee

Date

February 12, 2007

Reg. No.

37,478

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

Cynthia McKinley

Date

February 12, 2007

## APPENDIX C

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)  
16869P-023900US

First named inventor: Daisuke Matsubara

Art Unit: 2616

Application Number: 09/816,067

Examiner: Daniel J. Ryman

Filed: March 22, 2001

Title: Method and Apparatus for Providing a Quality of Service Path Through Networks

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact  
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.**

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

**1. Petition fee**

- ☐ Small entity — fee \$ \_\_\_\_\_ (37 CFR 1.17(l)). Applicant claims small entity status.  
See 37 CFR 1.27.
- ☒ Other than small entity — fee \$ 500 (37 CFR 1.17(l)).

**2. Reply and/or fee**

A The reply and/or fee to the above-noted Office action in the form of  
Amendment (identify the type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

B The issue fee of \$ \_\_\_\_\_

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

**COPY**

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**


## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. ☒ For fees authorized to be paid hereinabove, the Commissioner is hereby authorized to charge the fees, any deficiency of fees, and credit of any overpayments, to Deposit Account No. 20-1430.
5. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

  
Signature  
George B. F. Yee  
Typed or printed name  
Two Embarcadero Center, Eighth Floor  
Address  
San Francisco, California 94111-3834  
Address

2/12<sup>6374</sup> 2007  
Date  
37,478  
Registration Number, if applicable  
650-326-2400  
Telephone Number

- Enclosure ☐ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unavoidable delay
- ☐ \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

2/12/07

Date

Signature

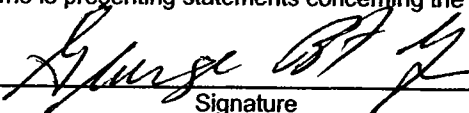
Cynthia McKinley

Typed or printed name of person signing certificate



**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

  
Signature

2/12/07

Date

George B. F. Yee

Typed or printed name

37,478

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

The Office action mailed May 16, 2006 was never received by Applicant or by Applicant's legal representatives. The mailing address properly identifies Applicant's legal representatives. However, a review of the file jacket and of the docket records (Exhibit A) maintained by Applicant's legal representatives indicates that the Office action was never received. Neither Applicant nor Applicant's legal representatives knew of the mailing of the Office action. As of the date of this statement, the Office action has not been received by Applicant or Applicant's legal representatives; the Office action is presumed to have been lost in the U.S. Post Office, or never actually left the U.S. PTO.

Applicant and Applicant's legal representative first became aware of the Office action on November 15, 2006, one day prior to the expiration of the maximum statutory period for responding to the Office action. Due to lack of time, a proper response could not be prepared in time for filing. Consequently, the application became unavoidably abandoned.

Since the application became abandoned, Applicant took action to assess whether or not to proceed with reviving the application. Having decided to proceed to revive the application, Applicant took action to study and prepare instructions for counsel to draft a proper response to the Office action. Instructions from Applicant were received on January 31, 2007 by counsel of record.

*(Please attach additional sheets if additional space is needed.)*

## APPENDIX D

# Prosecution Docket Report

For: Hitachi, Ltd.  
Country: For US Matters  
Start Date: 8/1/2006  
End Date: 11/30/2006  
Date Type: Both Due and Reminder Dates

Date Client/Matter (Pat/TM) {Client Reference No}	Action/Events Notes	Title/Mark Client	App - Reg No Filing - Issue Date	Country Status	Bill - Resp Party Other Attys
<b>Due Date: 08/01/2006</b> 16869B-126510US (Pat) {HAL-ID 346}	IDS (Inf.Discl.Stmt.) deadline	Method for Managing Volume Groups Considering Storage Tiers Hitachi, Ltd.	11/415592 7155593 5/1/2006 12/26/2006	US Granted	RCC - R1H GBY
<b>Due Date: 08/03/2006</b> 16869B-0115500US (Pat) {HAL 328}	Target Filing Date - 12 mo. Reminder original target filing date 8-3-05	Data Discovery and Location Management Hitachi, Ltd.		US Not yet filed	GBY - RCC
<b>Due Date: 08/12/2006</b> 16869B-063900US (Pat) {HAL-ID 238}	Response Interview Summary 07/12/06 (received 07/17/06)	Method and Apparatus for Data Integration Hitachi, Ltd.	10/660278 7143112 9/10/2003 11/28/2006	US Granted	RCC - GBY GBY
<b>Due Date: 09/04/2006</b> 16869B-098300US (Pat) {HAL-ID 289}	Response Interview Summary 08/04/06 (received 08/11/06)	Distributed Data Management System Hitachi, Ltd.	10/806998 3/22/2004	US Pending - Published	RCC - SAR SAR
<b>Due Date: 09/19/2006</b> 16869B-089600US (Pat) {HAL 284}	Response Petition DISMISSED 07/19/06 (received 07/26/06)	Method and Apparatus for Limiting Access to a Storage System Hitachi, Ltd.	10/759581 1/16/2004	US Pending - Published	RCC - GBY GBY
<b>Due Date: 09/28/2006</b> 16869B-149700US (Pat) {HAL-ID 366}	Check PAIR for 1st OA	Management of Encrypted Storage Networks Hitachi, Ltd.	11/239549 9/28/2005	US Pending	RCC - R1H
<b>Due Date: 09/29/2006</b> 16869B-098410US (Pat) {HAL300CON1}	IDS (Inf.Discl.Stmt.) deadline	Method and Apparatus for Multistage Volume Locking Hitachi, Ltd.	11/479454 6/29/2006	US Pending - Published	RCC - R1H
<b>Due Date: 11/02/2006</b> 16869B-098210US (Pat) {HAL-ID 288}	IDS (Inf.Discl.Stmt.) deadline	Long Term Data Protection System and Method Hitachi, Ltd.	11/498449 7177995 8/2/2006 2/13/2007	US Granted	RCC - CRF GBY
<b>Due Date: 11/24/2006</b> 16869B-080610US (Pat) {HAL268con1}	IDS (Inf.Discl.Stmt.) deadline	Point In Time Remote Copy for Multiple Sites Hitachi, Ltd.	11/510382 8/24/2006	US Pending - Published	RCC - R1H GBY

COPY

Date Client/Matter (Pat/TM) {Client Reference No}	Action/Events Notes	Title/Mark Client	App - Reg No Filing - Issue Date	Country Status	Bill - Resp Party Other Attys
Due Date: 11/29/2006 16869B-113110US (Pat) {HAL 322con1}	IDS (Inf.Disc1.Stmt.) deadline	Method for Data Protection In Disk Array Systems Hitachi, Ltd.	11/512664 8/29/2006	US Pending - Published	RCC - R1H GBY

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